

MINUTES

Montana Fish and Wildlife Commission Meeting

**Montana Wild Education Center
2668 Broadwater Avenue; Helena, MT**

July 10, 2013

Commission Members Present: Dan Vermillion, Chairman, Richard Stuker, Gary J. Wolfe
Matthew Tourtlotte via telephone

Fish, Wildlife & Parks Staff Present: Mike Volesky, Deputy Director and FWP Staff.

Guests: July 10, 2013 - See Commission file folder for sign-in sheet.

Topics of Discussion:

1. Call to Order - Pledge of Allegiance
2. Approval of Minutes of June 5, 2013 Commission Meeting
3. Approval of Commission Expenses
4. Commission Reports
5. Director's Report
6. Vice-Chairman Selection
7. Vehicle-killed Wildlife Salvage ARM Rules – Proposed
8. Right of Way Easement Report
9. Water Supply Update
10. Nevada Spring Creek Stock Water Right Acquisition and Conversion – Final
11. Marias River WMA Access Settlement – Final
12. Access Public Land Projects – Endorsement
13. Big Lake Acquisition – Final
14. 2013 Early Season Migratory Bird Regulations – Proposed
15. Nongame Tax Check-Off Projects – Final
16. 2013 Elk Quotas Outside the Biennial Range – Final
17. 2013 HB454 Hunting Access Agreements – Final
18. 2013 Fall Upland Game Bird Quotas and Limits – Final
19. 2013-14 Wolf Season, Quotas, and WMU Boundaries – Final
20. 2013 Furbearer Quota and Trap Setback Public Comment Opportunity
21. Public Comment – For Issues Not On This Agenda

1. Call to Order - Pledge of Allegiance

Chairman Vermillion called the meeting to order at 8:31 a.m. and led the Pledge of Allegiance.

2. Approval of the Commission Meeting Minutes of June 5, 2013

Commissioner Stuker stated Chairman Vermillion's statement on page 291 needs to be corrected to state "2014" instead of 2013.

Action: Commissioner Stuker and Commissioner Tourtlotte seconded the motion to approve the June 5, 2013 minutes with amendment. Motion carried.

3. Approval of Commission Expenses

Action: Commissioner Stuker moved and Commissioner Tourtlotte seconded the motion to approve the Commission expenses. Motion Carried.

4. **Commission Reports**

Chairman Vermillion welcomed newly appointed Commissioner Wolfe. District has been fairly quiet; watching water levels and temperatures. Toured the Milk River Ranch property; very impressed. Reported bighorn sheep have been seen in the Bridgers, positive sign.

Commissioner Stuker stated he has received calls from outfitters regarding elk archery and how permits are handled; calls and emails regarding the wolf plan. Attended Region 6 Citizens Advisory Council (CAC), council stated they would like a Commission meeting held in Northeastern Montana sometime soon; a lot of questions regarding bison on the Reservation; believes FWP needs to be more proactive in keeping wolf and lion quotas down; requested more information on license fees; and better communications between FWP and the CAC.

Commissioner Wolfe gave a brief background portrayal of himself. Has been in contact with Region 1 and 2 staff and other interest groups within the Regions; getting updated on key issues.

Commissioner Tourtlotte stated been quiet in his district. Received calls and emails regarding the Marias River WMA settlement and wolf season; met with a group of Montana archery hunters who are concerned about the upcoming archery season in the breaks but overall pleased with hunting over the last couple years.

5. **Director's Report**

Deputy Director Mike Volesky welcomed Commissioner Wolfe to the Commission, looking forward to working with him. Stated there have been drowning tragedies; have increased the size and added more signage across the state to try and diminish more tragedies. Emergency closure on the Smith River due to black bear activity, very little fear of humans and food conditioned, had to be euthanized for public safety; will be reopened in the near future. Department is watching drought conditions and possible closures; Sage Grouse Council has been meeting, good discussions; Aquatic Invasive Species (AIS) is up and running, have intercepted a number of boats but nothing viable; Explained the recent Bison Supreme Court finding, stated the judge did error in issuing an injunction that prevented the State from moving Bison to Fort Peck; good news for the Department.

6. **Vice-Chairman Selection**

Tabled until August 8, 2013 Commission meeting.

7. **Vehicle-killed Wildlife Salvage ARM Rules – Proposed**

Jim Kropp, Law Enforcement Bureau Chief explained HB 247, passed in the 63rd Legislative session, allows individuals to salvage deer, antelope, moose and elk killed in vehicular collisions. In order for the mandated lawful salvage of road-killed deer, elk, moose and antelope, FWP must have a method by which lawful possession is formally permitted as well as the tracking of those animals salvaged. The proposed rule provides a means for HB 247 as well as other current statutes be complied with while ensuring the lawful possession of these animals. The complete rulemaking process will take four months to complete including public comment, analysis of comments, Commission consideration and final decision at the October meeting; final rules should be in effect mid-November. Considered proposed salvaged ARM Rules read as follows: (1) A deer, elk, moose, or antelope accidentally killed as a result of a vehicle collision may be salvaged and possessed if a permit is obtained from a peace officer. (2) Any animal taken for salvage must be taken in its entirety, be presented to a peace officer or Department regional office during regular business hours within 24 hours of taking possession of the animal and be disposed of in accordance with 75-10-215, Montana Code Annotate (MCA) and any meat rendered must be utilized for human consumption and may not be used for bait or any other purpose. (3) The salvage permit will be issued on a form provided by the Department. (4) Big game licenses and tags issued for the purpose of hunting shall not be used for purposes of salvaging animals.

Action: Commissioner Stuker moved and Commissioner Wolfe seconded that the Commission propose administrative rules regarding salvaging deer, elk, moose and antelope that have been killed in vehicular collisions.

Commissioner Wolfe asked about field dressing the animal before it is transported home.

Kropp stated the individual would be able to field dress the animal before transporting home; this is to clarify that the entire carcass is to be removed not just the head.

Chairman Vermillion questioned the MCA code referenced in the proposed rule.

Kropp stated he will check to make sure the proper MCA is used in the final adoption.

Deputy Director Volesky and Chairman Vermillion stated more clarification is needed in section (2) of the proposal.

Chairman Vermillion asked for public comment.

Action on Motion: Motion Carried.

8. Right of Way Easement Report

Hugh Zackheim, Lands Program Manager stated Montana law provides the Director of Montana Fish, Wildlife and Parks with authority for issuing or receiving rights-of-way easements valued less than \$20,000, and the Department reports to the Commission on these transactions. The Lands Unit reported the completion of seven right-of-way projects during the two-year period from July 2011 through June 2013. These projects consist of: two easements providing needed service to FWP sites; a major fiber-optic line servicing the Gardiner/north Yellowstone Park area; a gas pipeline easement crossing under a corner of Clark's Fork fishing access site (FAS), plus a Montana Department of Transportation (MDT) easement at that same site; and two amended road easements to update historic access agreements.

SITE	FILE #	DATE	GRANTEE	TYPE	ACRES	INCOME (COST)
Smith River SP/Camp Baker (north of White Sulphur Springs)	4710.1(01)	July 14, 2011	FWP/Triangle Communications	Buried fiber-optic cable (service to FWP site)	< 0	0
Point of Rocks FAS (Upper Yellowstone Valley)	3280.1(01)	October 17, 2011 Century Link	FWP/Qwest	Buried fiber-optic cable	< 1	\$5,000
Carter's Bridge FAS (south of Livingston)	3355.6(B)01	December 15, 2011	FWP/Harper Trust	Road Easement (revision)	< 1	0
Dome Mountain WMA (Upper Yellowstone Valley)	3058.2(E)01	December 27, 2011	Rigler/FWP	Road Easement (revision)	< 1	0
Clark's Fork/Yellowstone FAS (near Bridger)	5425.6(A)01	June 25, 2012 Basin Pipeline	FWP/Williston	Underground Gas Pipeline	< 1	\$ 476
Medicine Rocks State Park (north of Ekalaka)	7501.1(01)	June 20, 2013 Electric Coop	FWP/Southeast	Buried electric cable (service to FWP site)	< 1	0
Clark's Fork/Yellowstone FAS (near Bridger)	5425.1(01)	April 1, 2013	FWP/MDT	Access Easement	< 1	\$2,150

Zackheim explained how the values of the easements are derived.

9. Water Supply Update

Bruce Rich, Fisheries Administrator explained Montana has had a tough water run-off, not much snow pack; anticipate fishing restrictions due to water conditions. Gave a brief explanation on FWP drought closure procedures.

Chairman Vermillion explained he has been receiving phone calls regarding the Department's position on the joint management responsibilities with the Confederated Salish Kootenai Tribes (CSKT) on Flathead Lake. Stated a recent article in the paper portrayed the Department's comments to the Tribe regarding Montana's perspective on the Lake Trout Reduction Program. Asked for the Department's perspective and where the Department stands with bull trout, Flathead Lake and why CSKT's proposal is unnecessary or ineffective.

Rich explained the Department co-manages Flathead Lake River fisheries with CSKT who have proposed a Lake Trout Reduction Program via environment impact study (EIS) that is currently out for public comment. The Department has fundamental biological issues with the program, specifically bull trout viability. The Department believes action to drastically reduce lake trout would impact bull trout negatively; very complex, has a lot of history. Willing to have a work session with the Commissioners to discuss more in depth.

Commissioner Vermillion explained the way it was stated in the paper, he got the impression that the relationship FWP Fisheries Division and CSKT Fisheries Department relationship has been strained. The Department has a long working history with the Tribe and urges the Department to keep the relationship in a positive footing. Damage has been done, important to rebuild the relationship

Deputy Director Volesky stated in the near future, the Department will have a high level meeting with CSKT specific to this issue to try and improve communication; welcomed Chairman Vermillion and Commissioner Wolfe to attend the meeting.

Chairman Vermillion expressed his concern regarding the Noxon Reservoir and walleye suppression efforts; asked the Fisheries Division to give an update regarding the issue.

Jim Satterfield, Region 1 Supervisor reported the Department is having an internal meeting on July 11, to gain approval for the proposed decision notice; will update Commissioners once approved. Public decision notice will be available within a couple weeks following approval.

10. Nevada Spring Creek Stock Water Right Acquisition and Conversion – Final

Bruce Rich, Fisheries administrator explained during the December 20, 2012 meeting the Commission approved accepting the donation of six irrigation water rights on Nevada Spring Creek. This donation would allow the Department to pursue the permanent conversion of the water rights to an instream flow for fishery purposes. This was the wish of the former owners of these water rights, Nevada Spring Creek Partners, who sold the water rights to Trout Unlimited with the understanding that they would be donated to FWP. The December motion was specific to accepting the irrigation water rights, the motion should have also approved accepting the donation of six related stock water rights direct from source stock water rights. The Department is recommending the Commission correct this omission; the environmental assessment (EA) and public involvement process included acquisition of the stock water rights. FWP asked the Department of Natural Resources and Conservation (DNRC) to convert the irrigation and stock water rights to instream flow for fishery purposes. Nevada Spring Creek, located in Powell County, is a tributary of Nevada Creek in the Blackfoot River Basin and provides spawning and reproduction habitat for westslope cutthroat trout and other species. FWP prepared a Draft EA and solicited public comments on the proposal to acquire the irrigation and stock water rights. The Nevada Spring Creek Partners previously made the management decision to cease portions of the water from Nevada Spring Creek for irrigation but have converted much of the property to other uses, including a wetland mitigation bank. The Commission could decide not to accept the donation of the stock water rights; this alternative would add confusion to DNRC's change of use process and could potentially constrain the proposed instream flow protections. Seven comments were received; six were supportive of the acquisition with one commenter expressing a concern the acquisition was taking irrigated lands out of production.

Action: *Commissioner Wolfe moved and Commissioner Stuker seconded that FWP acquire, through donation, six Nevada Spring Creek stock water rights, and pursue the conversion of these water rights to an instream flow for fishery purposes.*

Chairman Vermillion asked for public comment.

Action on Motion: *Motion Carried.*

Commissioner Wolfe thanked Trout Unlimited for donating the water rights.

11. Marias River WMA Access Settlement – Final

Ken McDonald, Wildlife Administrator explained the Marias River Wildlife Management Area (WMA) is nine miles southwest of Shelby along the Marias River in Toole and Pondera counties. It consists of 7,540 deeded acres, 492 leased DNRC acres, and 833 leased Bureau of Land Management (BLM) acres. The Marias River runs the entire 14-mile length of the property from west to east with wide riparian habitats and associated river breaks, all composed primarily of native habitat. Existing public access is on the north side of the WMA at the McCormick Road to a parking area and the north-central area at the Zel access. Both access points are to the WMA boundary and do not provide vehicle access to the river bottom. After FWP acquired the property for \$7.6 million in 2008 it was determined an implied easement was established historically by Charlie Lincoln in 1951 for public hunting to the east via the Lincoln Road. Wanken Farms disputed this and blocked the road before the property line between Wanken and the WMA.

Bill Schenk, FWP explained good faith negotiations in were held 2010 and 2011 but could not resolve the differences between Wanken Farms and FWP. A lawsuit was filed in 2012 by FWP against Wanken Farms asking for a declaratory judgment identifying public and administrative access on the eastside of the WMA. Wanken Farms counterclaimed for trespass and abuse of process. A court ordered mediation was held on April 15, 2013 and an agreement was negotiated: in return for a transfer of the 360 eastern-most WMA acres, Wanken would grant perpetual unlimited administrative access and limited public access across Wanken property; this would provide a southeastern access to the river bottom during hunting season and provide six parking spots, three for overnight. Administrative access on the Lincoln Road would also be included with administrative access on the two-track bench roads that traverse the property. The agreement is subject to approval by the Fish and Wildlife (FW) Commission and the Land Board. The proposed settlement was approved by the FWP Commission on May 9, 2013, initiating a 30-day public comment period. A total of 47 comments were received; while there were comments of support, the consistent message was of opposition or concern based upon cost and limited access. A public meeting held in Shelby on June 17, 2012 reflected the same opposition; 22 people attended that meeting. The Commission may approve or deny the proposed settlement. With approval, FWP would transfer 360 acres of the eastern portion of the WMA to Wanken Farms, and would secure a permanent ROW easement to the Charlie Lincoln homestead portion of the WMA. If denied, the lawsuit and counter suit would continue, with the outcome determined by the Court. Opportunity would still exist for alternative settlement until such time as a judge makes a final determination. FWP and the landowner negotiated the terms of the settlement proposal in good faith with understanding that it was subject to public comment, Commission approval and defers to the Commission as the final decision maker.

Chairman Vermillion asked for public comment.

Max Davis, attorney co-representing the Department, explained the history and risks regarding settlement; urges the Commission to approve the settlement.

Tom Lewis, attorney for Wanken family explained the idea that the State can achieve a public easement is very remote. The roadway has been maintained by the Wanken family for many years and not designated a public road. Access is the main concern of the Wanken family and during litigation allowed FWP temporary access. The court appointed an independent third party mediator to help mediate the settlement. The settlement is beneficial to both parties. Discussed counter-claim; believe the public comment does not understand the counter-claim; ample reason to approve settlement.

Chairman Vermillion asked for comment from other parties involved in the settlement.

Action: *Commissioner Tourtlotte moved and Commissioner Stuker seconded that the FW Commission deny the proposed Marias River-Wanken Farms settlement agreement as described by FWP.*

Michael Sherrard, Shelby, stated he wanted to rectify and clarify the situation; explained his father was a Commissioner for Toole County for many years and Mr. John Wanken had a agreement with a county road grater and allowed the county to grate his land.

Chairman Vermillion asked for public comment in the Regions.

Commissioner Stuker stated he would like the Department to use clearer language when proposing documents for better interpretation.

Deputy Director Volesky stated the Department has been having internal discussions regarding language usage and will continue to rectify the word usage in documents.

Chairman Vermillion thanked all parties involved for coming and to discuss their support for the negotiation settlement between the parties; very contentious process. The issue going forward is the scope of the easement. With the public comment overwhelmingly opposed and input from the public regarding the facts of the case, will vote to deny settlement.

Action on Motion: *Motion Carried.*

12. Access Public Land Projects – Endorsement

Ken McDonald, Fisheries Administrator explained in 2009, the Montana Legislature passed HB 585 “Come Home to Hunt” Bill which makes it possible for former Montanans who purchased a resident hunting license in the past, to be sponsored by a family member to obtain a nonresident combination deer or elk license. The program is aimed at continuing Montana family traditions by making an effort to bring family back home for the hunting season. The sponsoring adult family member must claim Montana as his or her legal residence and must have a valid Montana hunting license. Proceeds from the sale of Come Home to Hunt licenses are used by FWP to acquire public hunting access to inaccessible public land. The Department is working closely with the U.S. Forest Service (USFS) and Bureau of Land Management (BLM) to identify limited access on their public land, where this program could benefit them as well as FWP.

Chairman Vermillion asked the Department to present all access projects and the Commission will give one motion for all projects once presentation is completed.

McDonald explained all project proposals are seeking endorsement to start negotiations, MEPA process, public comment, decision notice and final endorsement. All projects are different and unique; hard to put a value on an easement.

Region 7 - Crow Creek

FWP proposes to purchase a permanent road easement or temporary 5 to 10 year road access lease across private land to provide public access to land owned and administered by the BLM and DNRC in Powder River County. The proposed easement is located on an existing private road that extends from the Crow Creek County Road about 11 miles south of Powderville. The easement crosses approximately one mile of private land before connecting to an existing developed road network on BLM land. The road easement will provide year-round access to the BLM and DNRC lands for public recreation.

Region 6 - Birch Creek

FWP proposes to purchase a long-term Right-of-Way (ROW) lease agreement across private land to provide hunting access to land owned and administered by the BLM in South Blaine County. The proposed ROW is on an existing two-track road that extends into the Missouri River Breaks in Hunting District (HD) 680. The portion of the road proposed for the long-term ROW lease agreement crosses approximately three miles of private land before connecting to BLM land. The ROW agreement would provide long-term hunting access for bighorn sheep, mule deer and upland game bird hunting.

Region 6 - Joiner Coulee

The Joiner Coulee APL project would improve access to BLM and DNRC administered land in northern Phillips County. This is a moderate public use area known for mule deer, antelope and upland game bird hunting opportunities. There is an immense distribution of non-game wildlife, including grassland nesting songbirds, available for watching. The private landowner adjacent to the south boundary of the BLM has expressed an interest in reaching an agreement to establish a one-mile road easement through the private property leading to a large block of BLM and DNRC land.

Region 5 - Big Lake

In November 2012, FWP acquired 1,110 acres along the eastern boundary of Big Lake WMA in Stillwater County. This brought most of the lake shoreline into FWP ownership and management. The WMA has two public access points along its west side. However, access to the east shore and east side of the WMA is by boat or waders only when the basin fills with water. The east shore and north shore provide quality waterfowl hunting opportunities but access is very difficult. This proposed access would provide vehicular access to a parking area in the northeast corner of the WMA, thus making the east side and north end much more accessible to waterfowl hunters and other recreationists. A traversable road currently exists in this location. The property boundary runs down the center of the road. Both adjacent landowners have expressed a willingness to pursue a public access easement.

Region 3 - York Gulch

In 2005, FWP Foundation acquired 287 acres of contiguous patented mining claims through a donation, with the intent of re-conveying the property to the Helena National Forest when purchase monies became available. The Black Bear Road that accesses the property is the principle access to the York Gulch area and surrounding Helena National Forest lands, but due to multiple small parcels of private land consisting of old mining claims along this route, legal public access does not currently exist. Prickly Pear Land Trust, Forest Service, and the FWP Foundation are pursuing legal access on approximately 2.5 miles of road across 24 tracts of land held under 14 different landowners.

Commissioner Tourtlotte strongly supports these acquisitions; vital for sportsman and sportswomen quality access they deserve.

Action: *Commissioner Stuker moved and Commissioner Wolfe seconded that the FW Commission endorses the recommendation to begin negotiating for public access road easements to provide access to public lands across the five mentioned, which are: Crow Creek, Birch Creek, Joiner Coulee, Big Lake and York Gulch.*

Chairman Vermillion asked for public comment.

Chairman Vermillion stated that these endorsements are funded by the “Come Home to Hunt” projects and funding is becoming limited. When passed by the legislature it was a product of Public Lands/Public Wildlife (PL/PW) with the objective to provide access to public access across public lands. A few years later, Senator Balyeat passed a bill that eviscerate “Come Home to Hunt” and as a result the program is severely underfunded. Would like the Department to work towards permanent easements.

Commissioner Stuker echoed Chairman Vermillion and Commissioner Tourtlotte statements; anytime FWP can work with a willing seller and a negotiable price is reasonable, the Department should proceed; easements are going to be a lot tougher to obtain; need to maintain the relationships with private property owners.

Action on Motion: *Motion Carried.*

13. Big Lake Acquisition – Final

Ken McDonald, Wildlife Administrator explained the proposed acquisition is a part of a project that received approval by the Commission during the October 11, 2012 meeting. In November 2012, FWP purchased approximately 1,110 acres of land adjacent to the east side of Big Lake WMA in Stillwater County through fee title using Migratory Game Bird License funds. This brought the total area of the WMA to 3,170 acres. The purchase of Parcel 3, the old railroad right-of-way, at a cost of approximately \$4,500, which includes administrative fees, is nearing completion and is in need of final Commission approval. Parcels 1a and 1b are publicly accessible from the west side of the WMA and access is difficult during periods of high water when the need for access for waterfowl hunting opportunity is the greatest. Adjacent landowners have expressed a willingness to negotiate a public road access to the northeast corner of Big Lake WMA; this access is contingent upon the purchase of Parcel 3. Parcel 3 would also be funded with the Migratory Game Bird License funds and will allow FWP to pursue an additional public road access point to the northeast corner of the WMA. Work to purchase Parcel 2 will also continue, and will be brought to the Commission for final approval at the appropriate time. An EA on the entire project was prepared and released on August 6, 2012; a public meeting was held in Billings on August 16, 2012, four people offered comments, all of which were in favor of the action. Three written comments were received; two supported the proposed action. One comment from the State Historic Preservation Board reminded FWP to consider any cultural/historic features that may be on the property; other comments also suggested FWP should pursue additional public access options for the northeast corner of Big Lake WMA.

Action: *Commissioner Tourtlotte moved and Commissioner Wolfe seconded the Commission approve the purchase in fee title of approximately four acres of railroad right-of-way within the boundary of Big Lake WMA.*

Chairman Vermillion asked for public comment.

Action on Motion: *Motion Carried.*

14. 2013 Early Season Migratory Bird Regulations – Proposed

Quentin Kujala, Wildlife Management Section Chief explained migratory bird seasons have direct federal oversight and coordination, and seasons must be set within federal frameworks. Mourning dove and common snipe have fixed season dates; September 1-October 30 for doves, September 1-December 16 for snipe and fixed bag/possession limits from year to year, barring significant changes in dove population indices. No changes are proposed for the 2013 mourning dove and common snipe seasons. The Rocky Mountain Population (RMP) of sandhill cranes is annually monitored, with individual states' allowable harvest quotas based upon observed numbers and coordinated with the U.S. Fish and Wildlife Service (USFWS). In Montana, crane numbers and hunter access have been used to set permit numbers for each of five areas (Dillon/Twin Bridges/Cardwell, Warm Springs area, Ovando-Helmville, Wheatland/Meagher/Golden Valley/portion of Sweetgrass counties, and Broadwater County). RMP crane numbers were down considerably in the multi-state, coordinated survey in September 2012, so the allowable harvest for each state will be reduced. Montana's RMP harvest allocation will be reduced from 223 in 2012 to 144 in 2013. The Montana crane harvest has consistently been well below allowable levels, with an estimate of 129 birds taken in 2012, compared to a harvest allocation of 223. FWP proposes maintaining 2012

permit numbers for the 2013 season. Numbers of permits and hunters have been kept low in some areas due to limited hunter access. The remainder of the Central Flyway is under frameworks for mid-continent sandhill cranes, for which the federal framework remains unchanged for 2013. The USFWS recently approved a change to allow possession limits to be three times the daily bag limit for all species that currently have a two times possession limit. Upon approval, public comment period will run through 5 PM, Monday, August 5, with final adoption at the August 8 Commission meeting.

Proposed possession limits:

- FWP proposes no changes to either RMP or the mid-continent crane season for 2013, although season dates would change for both due to calendar progression, but with no change in season length.
- Season dates for RMP sandhill cranes (special drawn permits): September 7- September 29.
- Season dates for mid-continent sandhill cranes: September 28– November 24.
- Increase the mourning dove and common snipe possession limits to 45 and 24.

Action: *Commissioner Wolfe moved and Commissioner Stuker seconded to adopt the proposed 2013 early season migratory bird seasons as proposed by FWP.*

Chairman Vermillion asked about any flexibility on dove season, can it be moved forward by a couple weeks.

Kujala explained the start date for the federal take of migratory birds is tagged to the start date for the state's other bird seasons. If other species were moved forward earlier, that would give opportunity to consider the same sort of movement for dove.

Chairman Vermillion asked if the State has the ability to separate the morning doves from the other species.

Kujala stated no, that is the Departments understanding of the federal guidance.

Action on Motion: *Motion Carried.*

15. Nongame Tax Check-Off Projects – Final

Quentin Kujala, Wildlife Management Section Chief explained under state law, "the FWP Commission shall review and annually approve the nongame wildlife program's projects recommended by the Department for funding from the nongame wildlife account. The Commission shall provide for public comment during the review and approval process." While final 2012 tax year donations are unknown at this time, the average received by FWP from the 2004-2011 tax years was \$27,000/year; contributions through May, 2013 totaled \$32,500. Public comment was accepted through June 24; one comment was received suggesting we concentrate spending rather than spreading it across multiple projects.

FWP is proposing the following work in FY14 with this anticipated funding:

- \$ 12,000 Inventory, monitoring and conservation work on Montana Species of Concern and species in need of inventory as determined through a formal ranking process.
- \$ 5,000 Prioritize habitat for conservation including: 1) identifying the most critical habitat needs for nongame, threatened or endangered species, 2) identifying and monitoring threats to these critical habitats.
- \$ 5,000 Competitive student stipend for nongame research.
- \$ 3,000 Contribution to ongoing Sylvatic Plague Vaccine research in Montana for black-footed ferret recovery.
- \$ 2,000 Education and outreach efforts to promote nongame wildlife appreciation and conservation.

Action: *Commissioner Wolfe moved and Commissioner Stuker seconded the FW Commission approve the proposed Nongame Check-Off work for Fiscal Year 2014 as presented.*

Chairman Vermillion noted it is encouraging to see the collection is up this year.

Action on Motion: *Motion Carried.*

16. 2013 Elk Quotas Outside the Biennial Range – Final

Quentin Kujala, Wildlife Management Section Chief explained field surveys and analysis have identified one proposed quota change outside the biennial range adopted in February 2012; 799-80: Increase antlerless B licenses from 200 to 400. All other changes are within the adopted biennial quota ranges. These adjustments, along with other season elements, are not proposed to change from 2012. Public comment was accepted through July 5; two comments raised concerns over management issues related to land ownership, fire effects and other factors that were also considered in the justification; three comments were directed at other areas and more general aspects of elk season frameworks in Montana.

Action: *Commissioner Stuker moved and Commissioner Tourtlotte seconded that the FW Commission adopt the final adjustment to the 799-80 elk quota outside the biennial range as proposed by FWP.*

Chairman Vermillion asked if this is because we are over objective in this particular district.

Kujala stated the elk presence and numbers has increased and this is to cap that number and distribution, recognizing the population has been growing, there is a need to increase antlerless B licenses numbers to get in front of that growth. There is a need to go to the community and confirm the status and make sure the objective formally identified matches that perception; may require an objective change.

Chairman Vermillion stated that at some point a statewide review on objectives should be done; the elk population has shifted and in some places where the tolerance may have been perceived low may have increased. All parties involved need to be involved in conversation. Have to be careful not to rely on objectives that may have been set a while ago.

Kujala stated between public comments and agency interpretation, the need to pay attention to elk distribution and numbers is important, and will continue to be so in the annual surveillance efforts.

Action on Motion: Motion Carried.

17. 2013 HB454 Hunting Access Agreements – Final

Quentin Kujala, Wildlife Management Section Chief explained under legislation provisions, FWP received the authority to issue either-sex or antlerless elk permits to landowners for management purposes. The landowner must offer free public elk hunting, meet the various conditions of the statute, and enter a contractual public elk hunting access agreement with FWP. The contract defines the areas open to public elk hunting, the number of elk hunting days that will be allowed on the property, and other factors that FWP and the landowner consider necessary for the proper management of elk on the landowner's property. The Swanz Hunting Access Agreement states that in return for allowing access to elk hunters, Mr. Swanz, or a family member, would receive one 411-21 either-sex permit and in turn, FWP would issue four additional 411-21 permits from the already randomized list of unsuccessful applicants for that license permit type (LPT); successful applicants could only hunt on the Swanz deeded property. This agreement was first used in 2002 and has been reapplied annually since then based upon continued positive post-hunt evaluations. The proposed agreement for 2013 represents no change from the 2012 agreement. The Swanz agreement has received public review in previous years via the Commission's hunting season setting process and has generated relatively few public comments. The post-hunt evaluations have sought feedback from all identified hunters and the landowner the evaluations generally confirm that agreement terms, and reasonable expectations, are being met to all parties' satisfaction. Public comment ran through June 24; received four comments, three in support and one in opposition.

Action: Commissioner Tourtlotte moved and Commissioner Wolfe seconded that the FW Commission adopt the final Hunting Access Agreements for the 2013 hunting season as proposed by FWP.

Commissioner Wolfe asked if this is the only agreement like this in the state.

Kujala stated yes, it is the only agreement in the state.

Action on Motion: Motion Carried.

18. 2013 Fall Upland Game Bird Quotas and Limits – Final

Quentin Kujala, Wildlife Management Section Chief explained upland game bird season dates for 2013 were finalized in February 2012. Other season elements include bag and possession limits and special permit quotas (turkeys). While limits seldom change from year to year, Adaptive Harvest Management (AHM) for sage grouse annually assesses populations and bag limits. AHM recommends a conservative 2-bird bag limit if average lek counts are below the long-term average of 30 males/lek on nearly 90 pre-selected leks. There is a provision for not opening the season based on consistently low average lek counts (45% or more below long-term average) over a 3-year period. If the average count exceeds the long term average, AHM recommends a standard four-bird bag limit. Heightened public awareness surrounding sage grouse, and potential habitat impacts from energy development, resulted in the FWP Commission adopting a conservative 2-bird bag limit in 2007, a year of above-average lek counts (33.6 males/lek). The 2-bird bag limit was maintained during 2008 - 2010 with annual survey averages of 22.9, 23.3, and 20.5 males/lek for 2008, 2009 and 2010, respectively. The 2011 lek surveys revealed a 6% decline from 2010 to 19.2 males/lek. The 2012 lek surveys revealed no real change from 2011 with an average 19.1 males/lek. This was approximately 66% of the long term average. At the statewide level this was above the closure trigger of three consecutive years at 45% or more below the long term average and the conservative 2-bird bag and twice the daily bag possession limit for sage grouse was again proposed and adopted for 2011 and 2012. The 2013 lek survey effort revealed an average 14.9 males/lek, which is 48% below the long term average. Based on localized data, production was relatively poor in 2011 due to extreme rainfall during the nesting period. This may influence low male counts for several years. Winter conditions have been generally favorable for over-winter hen survival. FWP proposes a two-bird bag limit and twice the daily bag possession limit for sage grouse in 2013, which represents no change from 2012. At the Commission's request, attached are options for more conservative seasons that could be considered for sage grouse. FWP also proposes a permit quota change for the Gallatin County fall turkey hunts; 375-50 permits would be increased from 10 to 50, while permits for the 375-51 youth hunt would be increased from 2 to 10. Reflecting the nature of upland bird bag and possession limits as supported by biology and management history, all other upland game bird bag, possession limits and permit quotas are proposed unchanged from 2012 or as otherwise finalized during season structure changes in February 2012 and includes staff consideration of other fall turkey permits. Public comment ran through June 24; received 10 comments which voiced support for the proposals along with suggested adjustments to upland bird season frameworks and one comment strongly opposed hunting.

Action: *Commissioner Wolfe moved and Commissioner Tourtlotte seconded to adopt the final 2013 upland game bird bag and possession limits and permit quotas as presented by FWP.*

Commissioner Stuker stated he cannot support the motion as proposed; the sage grouse numbers are falling. A state-wide Range Management Plan (RMP), was finalized with public comment and sent to Washington D.C for final approval; the 20 year plan was significantly changed by the Federal Government regarding to sage-grouse and what is going to happen if they are listed. If this happens, the private property owners might perceive FWP to have contributed to the closing, and if additional charges and conditions be placed on farmers and ranchers, it could be detrimental for public access on private property in these areas. Would like the bag limit and number in possession reduced to help lessen the impact that it may have.

Commissioner Wolfe asked for an update on Sage Grouse Advisory Council and where they stand.

Kujala commented the council has been meeting frequently; all risks to the species that FWS had identified are being discussed in individual meetings; Federal entities involved in conversation are aware that Montana is working on a final product.

Ken McDonald explained the FWS documents and deadlines. FWP and the committee are planning to have a draft document in place by October 2013; public comment and review with finalization early January 2014. FWS, BLM, U.S. Natural Resources Conservation Service (NRCS), and DNRC State Lands are actively participating with the council.

Commissioner Wolfe asked if the sage grouse was listed species, would it prohibit recreational hunting.

McDonald explained any hunting would be banned.

Deputy Director Volesky explained the reason for the council is to preclude listing and give the FWS the information it needs not to list; need numbers and assurances the numbers can be sustained along with regulatory mechanisms in place. Montana's numbers are better than other states.

Chairman Vermillion asked if the committee is analyzing the impact of hunting for long time viability.

McDonald stated predation has been more of a topic; the FWS stated what needs to be in place to preclude listing is habitat issues and loss in fragmentation.

Chairman Vermillion asked if the Department has any plans to communicate with the public to address the perception that hunting is not the issue with the potential listing. Anything that can be done with science to show that hunting doesn't necessarily impact sage grouse is time well spent; hate to see land close over this decision.

Deputy Director Volesky stated that the public perception is an important observation and attention must and will be put towards that.

Aye - Chairman Vermillion, Commissioner Wolfe, Commissioner Tourtlotte
Nay – Commissioner Stuker

Action on Motion: Motion Carried.

19. 2013-14 Wolf Season, Quotas, and WMU Boundaries – Final

Ken McDonald, Wildlife Administrator stated the objective with the wolf hunting season is to: maintain a viable wolf population; maintain the authority for the state to manage wolves; positive working relationship with livestock producers, hunters and other stake holders; reduce impact of livestock and big game populations; sustainable hunter opportunity for wolves and ungulates; increase broad public acceptance; sustainable harvests and hunter opportunity as part of wolf conservation; enhance open and effective communications to inform decisions; and to learn and improve.

McDonald gave a lengthy power point presentation (*see July 8th Commission file folder for copy of power point*). Explained regulated public hunting and trapping of wolves was endorsed by the Governor's Wolf Advisory Council in 2000 and is included in Montana's Wolf Conservation and Management Plan. The FWP Commission adopted a conservative hunting-only quota of 75 wolves for the 2009 season and closed with a legal harvest of 72. The minimum wolf count increased in 2009 from 497 to 524 wolves. For the 2010 season (blocked by court ruling) the Commission adopted a statewide quota of 186 with 13 wolf management units (WMUs). The 2011 season had a statewide hunting-only quota of 220 wolves with 14 WMUs. Modeling predicted harvest equal to this quota would result in up to a 25 percent reduction from the 2010 minimum of 566 to 425. Including a season extension to February 15, 2012, 166 wolves were harvested with 3 of the 14 WMUs closing due to their quota being met. WMU boundaries were again modified for 2012-13. There was no addition to statewide quota and trapping was from December 15, 2012–February 28, 2013. During 2012, 2,414 trappers completed the Montana Wolf Trapper Education Course. The regular rifle season was expanded to run from October 15, 2012–February 28, 2013. The Commission approved a wolf bag limit of three wolves that was implemented with the passage of House Bill 73. By season end, trappers harvested 97 wolves while hunter harvested 128. The changes from the 2012-13 wolf season are proposed for 2013-14: archery season would open on September 7 and run through September 14; rifle season would open on September 15 and close on March 15;

trapping dates would remain the same (December 15–February 28), and trappers would be required to have completed the Montana or Idaho wolf trapper certification course. The bag limit would be five wolves per person in any combination of wolves taken by hunting or trapping. WMUs 110 and 316 would be unchanged with quotas of two and three, respectively; WMU 313 would be added and includes the southern portion of HD 313 and would have a quota of four wolves; the bag limit would be one wolf per person in WMUs 110, 313 and 316. Hunters would not be allowed to take wolves over bait placed for trapping and trappers would be required to dispatch wolves via gunshot. In Regions 1-5, trappers would be required to set pan tensions on wolf traps to a minimum of 10 pounds; this standard would minimize the take of lynx, wolverines, and other non-target species. The public comment period ran through June 26 and received more than 25,000 comments with the majority being duplicate comments with different names. FWP will give an update on wolf harvests at the December meeting; if there is a need or desire for the Commission to make changes it can be done at that time.

Action: Commissioner Tourtlotte moved and Commissioner Stuker seconded to adopt the 2013-14 wolf season proposal as presented by FWP.

Representative Washburn explained himself and Representative Kelly Flynn joined early on in sponsoring HB 73. Thanked the Department and Commission for abiding closely to the regulations and the law; will alleviate some of the problems. Only concern is the proposed 300 foot setbacks; encourages to list area and roads in regulations.

Chairman Vermillion asked for public comments.

Kim Bean, Wolves of the Rockies (WOTR), concerned about and opposes proposal.

Marc Cooke, WOTR, concerned about and opposes proposal.

Gail Richardson, Bozeman, opposes proposal.

Steve Clevidence, Living with Wolves, opposed to regulations.

Paul Fiedler, Montana Trappers Association (MTA), Region 1 CAC, supports recommendations; good year for trapping.

Michael Sherrard, Shelby, supports proposal.

Bart Melton, National Parks Conservation Association, proposal represents progress, more needs to be done.

Zach Strong, Natural Resource Defense Council, appreciates decision on setback, against wolf trapping because of incidental capture.

Nick Gevok, Montana Wildlife Federation, reasonable/supports proposal.

Chris Colligan, Great Yellowstone Collation, reasonable proposal; concerned about quotas.

Shari Sutherland, Belgrade, reasonable proposal.

Blake Henning, RMEF, supports proposal, YNP does not need special protection.

Paul Rossignol, Montana Sportsman for Fish and Wildlife (SFW), supports proposal; problem with buffer areas and baiting; needs to be clarified better.

Bob Shephard, MTA, supports proposal; good year for traps.

Rod Bullis, Montana Wildlife Federation (MWF), reasonable scientific proposal.

Bob Ream, Helena, changes within proposal are good. Follow all WMUs and revisit in December.

Region 1

April Lane, Whitefish, several comments regarding proposal.

Region 3

Dave Hornoff, National Wolfwatch Coalition (NWC), opposes plan.

Kat Brekken, NWC, opposes plan; not balanced with science.

Region 2

KC York, Footloose Montana, opposes proposal.

Anja Heister, Missoula, appauled with the way wildlife is being managed; opposes proposal.

Region 5

JW Westman, Laurel Rod and Gun Club, overall supports proposal.

Deputy Director Volesky and McDonald had a brief discussion on the details of the proposal.

Commissioner Wolfe stated wolves are mobile and travel great distances; if there was population void, does the Department expect to move into other areas to fill that void.

McDonald stated yes.

Commissioner Wolfe asked if the FWP wolf biologists collaborate/share information with federal agencies.

McDonald explained yes, in late spring the Northern Rockies agencies have a coordination meeting to discuss issues within their state; FWP biologists speak with other state biologists regularly concerning their related area; and an annual report is done by all states, submitted to the FWS and they combine the reports into a population status report.

Commissioner Stuker asked in 313/316 areas, other than hunting, how many wolves have been taken for various reasons.

McDonald stated he is only aware of one in the Gardner area.

Chairman Vermillion commended the Department and Commission for listening carefully to public comment. The Commission will specifically look at the wolf harvest at the December meeting. The Commission may, within the confines of the law, decide to close certain districts if there is a concern of viability over the wolf population in that area. The Department is managing wolves with the best available science; thanked the Department for their hard work, not an easy issue. Explained at the start of this process, he recommended the non-consumptive users buy a wolf tag; it would show how many users may want to participate financially in wolf management. The Commission and Department have been and will continue to manage wolves based on science, but will not overlook the economic impact on wolf and elk populations; trying to provide the opportunity for both.

Commissioner Wolfe agreed with Chairman Vermillion, not concerned about the viability of wolf population north in YNP, worried about economic impact in the Gardner and Greater Yellowstone area.

Amended motion: Commissioner Wolfe moved and Commissioner Stuker seconded to amend the original motion to lower the quota in WMU 313 from 4 to 3.

Aye - Commissioner Wolfe, Commissioner Stuker

Nye - Chairman Vermillion, Commissioner Tourtlotte

Action on Amended Motion: Denied

Action on Original Motion: Carried.

20. 2013 Furbearer Quota and Trap Setback Public Comment Opportunity

Nancy Ostlie, Bozeman, against trapping and proposal.

Paul Fielder, MTA, supports quota changes; a lot of trapping education is available through the Department; asked to be specific on areas within the 300 setback.

Sue Kronenberger, Helena, support increase in setbacks; asked to add the widely used trails in and around Helena; opposes trapping.

Lisa Fairman Helena, opposes trapping; supports proposed setback; recommends a working group.

Bob Shephard, MTA, supports proposal and Paul Fielders comments.

Paul Rossignol, SFW, supports proposal based on science; make clarification of where setbacks are to be located.

Rod Bullis, MWF, Department and partners in the trapping community need to work together to educate each other.

Deb Berglund, Bozeman, requesting heavily populated areas around Bozeman closed to trapping.

Shari Sutherland, Belgrade, would like to have trap-free trails.

Gal Richardson, Bozeman, speaking on behalf of concerned citizens, requests highly populated hiking trails be closed to trapping; opposes any form trapping.

Michael Sherrard, Shelby, supports proposal.

Region 1

April Lane, Whitefish, opposes trapping; setbacks need to be further on highly used trail near Whitefish, MT.

Region 3

Alesha Smith, Bozeman, request certain trails be designated trap-free and signage at trail heads.

Jenna Caplett, Bozeman, request certain trails be designated trap-free and signs at trail heads.

John Kirkland, Bozeman, supports trap-free trails.

Region 2

KC York, Footloose MT, supports trap-free trails; Department will not be able to enforce; opposes proposal.

Anja Heister, Missoula, supports trap-free trails; Department will have trouble enforcing.

Chairman Vermillion stated July 22 is the last day to submit written comment on furbearer proposals.

Commissioner Stuker stated the Department of Livestock and FWP have initiated contact to discuss additional setbacks. Visited with Stockgrowers at a grazing meeting; they are looking forward to working with FWP to find a resolution to this problem.

Commissioner Wolfe asked who has authority over Rattlesnake, Blue Mountain and Pattee Canyon trails in Missoula that are closed to trapping.

Mike Thompson stated the trap-free areas are jointly managed by FWP and the Forest Service (landowner).

21. Public Comment – For Issues Not On This Agenda

Bob Ream, Helena stated every ten years a world-wide Wolf Symposium is held; this year the Symposium is being held October 10-12 in Duluth Minnesota; he suggested and was accepted to the Symposium, that a panel be formed with the six states involved with wolf harvest; gives an opportunity to present what has happened from recovery to state management in the United States. Montana, Idaho, Wyoming, Michigan, Wisconsin and Minnesota, have approximately 6,000 total wolves, which is above recovery goals. Important for people to know legislative, executive and judicial decisions have effected and had control over wolf management; more than any other species. FWP Wolf Biologist Nathan Lance will do the presentation for Montana at the Symposium; Ream will be the moderator for the panel.

Paul Fiedler, MTA, stated the MTA has worked with Region 2 and the Forest Service to make some of the trap-free trails.

Sue Kronenberger, Helena Mental Health Therapist, suggests adding restrictions that persons must be 18 years or older and pass a test that they have knowledge of all regulations, requirements and responsibilities on trapping before being allowed to trap.

Katheryn QannaYahu, Bozeman, asked for Commission enforcement regarding the Elk Brucellosis Working Group Management; tried to get documentation into the process and repeatedly being blocked; asked Commissioners to educate themselves before the August meeting.

Chairman Vermillion stated the Elk Brucellosis Working Group is meeting in Bozeman tomorrow, July 11.

Unknown female asked about progress on the Bison State Plan.

Chairman Vermillion asked Quentin Kujala or Ken McDonald to speak with the unknown female and answer her questions.

Chairman Stuker motioned and Commissioner Wolfe seconded to adjourn the meeting. Motion Carried.

The meeting adjourned at 2:53 p.m.

Dan Vermillion, Chairman

Mike Volesky, Deputy Director